In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 13368 of 2005

Date of Decision: September 29, 2006

Hargian Singh

…Petitioner

Versus

State of Haryana and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. P.L. Verma, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana,

for the respondents.

JUDGMENT

M.M. KUMAR, J.

The order dated 13.1.2005 (P-7) passed by the Secretary, Rajya Sainik Board, Haryana, is the subject matter of challenge in the instant petition. The claim made by the petitioner is that after discharge from Army on 1.5.1992, he joined the civil post of Welfare Organisor on 21.5.1992 and worked as such up to 10.9.1992. After a gap of more than two months, the petitioner was appointed as Welfare Organisor on regular basis through Subordinate Services

Selection Board, Haryana, where he joined on 16.11.1993. He retired on 30.6.2003. His claim of pension has been rejected on the ground that he did not have 10 years qualifying service as his service rendered from 16.11.1993 to 30.6.2003, in fact, comes to be 9 years 7 months and 15 days. The claim of the petitioner that his service w.e.f. 21.5.1992 to 10.9.1992 should be added, would also not be sufficient as still he would be short of 10 years. However, learned counsel for the petitioner has placed reliance that interruption of two months should be condoned by tagging the service from 21.5.1992 to 10.9.1992 in terms of Rule 4.23 of the Punjab Civil Services Rules, Volume II (as applicable to Haryana). The aforementioned Rule is reproduced hereunder for a ready reference:-

> "4.23. Interruption in service (either between two spells of permanent or temporary service or between a spell of temporary service and permanent service or vice-versa in the case of an officer retiring on or after the 5th January, 1961, may be condoned, subject to the following conditions, namely:-
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> (1) The interruption should have been caused by reasons beyond the control of Government employee concerned.
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> (2) Service preceding the interruption should not be less than five years' duration. In cases where there are two or more interruptions, the total service, pensionary

benefits in respect of which shall be lost if the interruptions are not condoned should not be less than five years.

(3) The interruption should not be of more than one year's duration. In cases where there are two or more interruptions, the total period of all interruptions to be condoned should not exceed one year."

A perusal of the Rule would show that various conditions are required to be fulfilled before an employee become entitled to condonation of interruption. One of the condition as given in Rule 4.23 is that service preceding the interruption should not be less than five years. In the present case, the service preceding the interruption is just over four months. Therefore, the benefit of Rule 4.23 would not be available to the petitioner.

In view of the above, there is no ground to declare the impugned order dated 13.1.2005 (P-7) as illegal. The order is in accordance with law and the Rules. Accordingly, the writ petition fails and the same is dismissed.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

September 29, 2006
Pkapoor